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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 AMERICAN FIREGLASS,

12 Plaintiff,

13 v.

14 MODERUSTIC, INC.,

15 Defendant.
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Case No.: 15-CV-2866 JLS (BGS)

**ORDER REQUESTING
ADDITIONAL CLAIM
CONSTRUCTION BRIEFING**

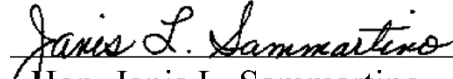
(ECF No. 55)

18 On August 31, 2017, the Court held a Claim Construction Hearing in the above-
19 captioned matter. During the hearing, Plaintiff American Fireglass argued that the terms
20 “tumbling apparatus” and “vibratory apparatus” should be construed as means-plus-
21 function terms governed by 35 U.S.C. § 112(f) and as construed by the Court of Appeals
22 for the Federal Circuit in *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1343 (Fed. Cir.
23 2015) and its progeny. However, it does not appear that this argument with specific
24 reference to § 112(f) and ensuing case law was presented in any of Plaintiff’s briefs in
25 preparation for the Claim Construction Hearing. (ECF Nos. 34, 36.) Given the possibility
26 that these terms may be governed by § 112(f), the Court requires additional briefing from
27 both parties. Accordingly, Plaintiff **SHALL FILE** a supplemental brief on the application
28 of § 112(f) to these two terms on or before September 14, 2017. Defendant Moderustic,

1 Inc. **SHALL FILE** its responsive brief on or before September 28, 2017. Thereafter the
2 Court will deem the matter submitted and will issue its Claim Construction Order. During
3 this time the parties may also inform the Court if there are any further stipulations to
4 proposed constructions.

5 **IT IS SO ORDERED.**

6 Dated: September 5, 2017

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8 Hon. Janis L. Sammartino
9 United States District Judge
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